

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 14TH MARCH 2007 / 23RD PHALGUNA 1928

WP(C).No. 5328 of 2007(H)

PETITIONER:

**R.UNNIKRISHNAN, AGED 38 YEARS,
S/O.RAMAN NAIR, RESIDING AT PATTATHIL VEEDU,
MOTTAPPURAM, PARAVUR,KOLLAM DISTRICT.**

**BY ADV. SRI.V.VENUGOPALAN NAIR
SRI.C.UNNIKRISHNAN (KOLLAM)**

RESPONDENTS:

**THE PARAVOOR MUNICIPALITY OF KOLLAM
DISTRICT, REPRESENTED BY ITS SECRETARY.**

BY ADV. SRI.B.SURESH KUMAR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 14/03/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PIUS.C.KURIAKOSE .J

W.P.(C) No.5328 of 2007

Dated this the 14th day of March 2007

JUDGMENT

The Municipality has filed a counter- affidavit producing Ext.R1(a) which is a letter submitted by the writ petitioner dated 1-2-2007 wherein he has stated that he is closing down his shop. Ext. R1(b) produced along with the counter-affidavit is the notification dated 30-4-1996 issued in terms of the Kerala Municipality Act and entry No.69 therein includes sale of fruits. The learned counsel for the petitioner referred to Section 447 of the Municipality Act and submitted on the authority of the judgment in **Shaji Vs State of Kerala 2004 (1)KLT 118** that in the absence of rules framed by the Government in that regard, R1 (b) notification is invalid. The learned counsel for the Municipality does not agree . He would draw attention attention to Section 575 of the Municipalities Act and submit that though it is true that no rules have been promulgated by the Government under Section 447, the earlier rules will operate. The learned counsel for the petitioner submitS that even as per the earlier 6th schedule existing earlier , fruit is not an item which requires licence

2. R1(a) shows that the petitioner close down the business since he was not having licence. He admittedly has applied for a licence

Considering the facts obtaining in this case I am of the opinion that this Court will not be justified invoking the extraordinary constitutional jurisdiction. Without granting reliefs the writ petition is stand dismissed. However there will be a direction to the respondent Municipality to take an early decision on the license application submitted by the petitioner. The decision will be taken within two weeks of receiving a copy of this judgment. The decision taken should be communicated to the petitioner without delay.

PIUS.C.KURIAKOSE,JUDGE

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